(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

DATE: JAN 2 7 2015 OFFICE: NEBRASKA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center (Director). It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner describes itself as a business and information technology consulting company. It seeks to permanently employ the beneficiary in the United States as a "Lead Technical Consultant [redacted]" and to classify him as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). Under this statutory provision preference classification may be granted to members of the professions holding advanced degrees or their equivalent whose services are sought by an employer in the United States.

At issue in this case is whether the beneficiary possesses the requisite education to qualify for the requested preference classification and meet the terms of the labor certification.

PROCEDURAL HISTORY

The Form I-140, Immigrant Petition for Alien Worker, was filed on July 30, 2014. As required by statute, the petition was accompanied by an ETA Form 9089, Application for Permanent Employment Certification, which had been filed with the U.S. Department of Labor (DOL) on January 20, 2014,[1] and approved by the DOL on June 26, 2014.

Part H of the labor certification states that the offered position has the following minimum requirements:

H.4. Education: *Master's degree in Computer Science.*
H.5. Training: *None required.*
H.6. Experience in the job offered: *12 months.*
H.7. Alternate field of study: *IT, MIS, Business Administration, or related.*
H.8. Alternate combination of education and experience: *None accepted.*
H.9. Foreign educational equivalent: *Accepted.*
H.10. Experience in an alternate occupation: *Accepted.* *12 months in an occupation involving software development.*
H.14. Specific skills or other requirements: [*Specifed software languages and willingness to travel to client worksites in various states.*]

Part J of the labor certification states that the beneficiary earned a master's degree in information technology from the [redacted] India, in 2007. The record contains copies of the beneficiary's transcripts and academic certificate from [redacted] which show that the beneficiary completed a five-trimester academic program from January 2005 to

[1] This date – when the DOL accepted the labor certification application for processing – is also the priority date of the instant petition. *See* 8 C.F.R. § 204.5(d).

October 2006 and was issued a certificate on August 15, 2007, which stated the following:

> This is to certify that [the beneficiary], having been examined for the MBA Program in Advanced Information Technology under the autonomous program of the and found qualified for the same, the said MBA Program Certificate in Advanced Information Technology has been awarded to him on the 15th day of August 2007.

The record also contains copies of the beneficiary's academic records from India, which show that the beneficiary was awarded a "Bachelor of Engineering (Information Technology)" on November 30, 2003, following completion of a four-year degree program in the years 1999-2003.

As evidence of the U.S. equivalency of the beneficiary's Indian education, the record includes three reports from credential evaluation services asserting that the beneficiary's academic credential from the in India is equivalent to a master's degree in business administration from a U.S. university.

The Director issued a Request for Evidence on August 6, 2014, seeking additional documentation pertaining to the beneficiary's education. The petitioner responded on September 15, 2014, with a brief from counsel and additional evidence.

On September 29, 2014, the Director issued a decision denying the petition. The Director noted that the beneficiary cannot qualify for classification as an advanced degree professional based on his Bachelor of Engineering degree and five years of progressive post-baccalaureate experience because the labor certification specifically requires a master's degree and does not allow for the alternate combination of a bachelor's degree and five years of qualifying experience. The Director found that the three credential evaluations submitted by the petitioner were less credible than the Educational Database for Global Education (EDGE), created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), with regard to the U.S. equivalency of the beneficiary's academic credential from the . The Director quoted language from EDGE stating that a Master of Business Administration in India is comparable to a bachelor's degree in the United States, not a master's degree, because the entrance requirement for an Indian MBA is a three-year bachelor's degree, not a four-year bachelor's degree which is the U.S. standard for entry into an MBA degree program. Finally, the Director found that the evidence of record failed to establish that was accredited by the An alien who does not receive a degree from an accredited institution, the Director concluded, does not qualify for classification as a professional (advanced degree or otherwise).

The petitioner filed an appeal on October 30, 2014, which was supplemented by a brief from counsel and supporting documentation. The petitioner's appeal is properly filed and makes specific allegations of error in law and fact. We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

LAW AND ANALYSIS

The Roles of the DOL and USCIS in the Immigrant Visa Process

At the outset, it is important to discuss the respective roles of the DOL and U.S. Citizenship and Immigration Services (USCIS) in the employment-based immigrant visa process. As noted above, the labor certification in this matter is certified by the DOL. The DOL's role in this process is set forth at section 212(a)(5)(A)(i) of the Act, which provides as follows:

> Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that-
>
> > (I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and
> >
> > (II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

It is significant that none of the above inquiries assigned to the DOL, or the regulations implementing these duties under 20 C.F.R. § 656, involve a determination as to whether the position and the alien are qualified for a specific immigrant classification. This fact has not gone unnoticed by federal circuit courts:

> There is no doubt that the authority to make preference classification decisions rests with INS. The language of section 204 cannot be read otherwise. *See Castaneda-Gonzalez v. INS*, 564 F.2d 417, 429 (D.C. Cir. 1977). In turn, DOL has the authority to make the two determinations listed in section 212(a)(14).[2] *Id.* at 423. The necessary result of these two grants of authority is that section 212(a)(14) determinations are not subject to review by INS absent fraud or willful misrepresentation, but all matters relating to preference classification eligibility not expressly delegated to DOL remain within INS' authority.
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> . . . . . .
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> Given the language of the Act, the totality of the legislative history, and the agencies' own interpretations of their duties under the Act, we must conclude that Congress did not intend DOL to have primary authority to make any determinations other than the two stated in section 212(a)(14). If DOL is to analyze alien qualifications, it is for the purpose of "matching" them with those of corresponding United States workers so

[2] Based on revisions to the Act, the current citation is section 212(a)(5)(A).

> that it will then be "in a position to meet the requirement of the law," namely the section 212(a)(14) determinations.

Madany v. Smith, 696 F.2d 1008, 1012-1013 (D.C. Cir. 1983). Relying in part on *Madany*, 696 F.2d at 1008, the Ninth Circuit stated:

> [I]t appears that the DOL is responsible only for determining the availability of suitable American workers for a job and the impact of alien employment upon the domestic labor market. It does not appear that the DOL's role extends to determining if the alien is qualified for the job for which he seeks sixth preference [visa category] status. That determination appears to be delegated to the INS under section 204(b), 8 U.S.C. § 1154(b), as one of the determinations incident to the INS's decision whether the alien is entitled to sixth preference status.

K.R.K. Irvine, Inc. v. Landon, 699 F.2d 1006, 1008 (9th Cir. 1983). The court relied on an amicus brief from the DOL that stated the following:

> The labor certification made by the Secretary of Labor . . . pursuant to section 212(a)(14) of the [Act] is binding as to the findings of whether there are able, willing, qualified, and available United States workers for the job offered to the alien, and whether employment of the alien under the terms set by the employer would adversely affect the wages and working conditions of similarly employed United States workers. *The labor certification in no way indicates that the alien offered the certified job opportunity is qualified (or not qualified) to perform the duties of that job.*

(Emphasis added.) *Id.* at 1009. The Ninth Circuit, citing *K.R.K. Irvine, Inc.*, 699 F.2d at 1006, revisited this issue, stating:

> The Department of Labor (DOL) must certify that insufficient domestic workers are available to perform the job and that the alien's performance of the job will not adversely affect the wages and working conditions of similarly employed domestic workers. *Id.* § 212(a)(14), 8 U.S.C. § 1182(a)(14). The INS then makes its own determination of the alien's entitlement to sixth preference status. *Id.* § 204(b), 8 U.S.C. § 1154(b). *See generally K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006, 1008 9th Cir.1983).
>
> The INS, therefore, may make a de novo determination of whether the alien is in fact qualified to fill the certified job offer.

Tongatapu Woodcraft Hawaii, Ltd. v. Feldman, 736 F. 2d 1305, 1309 (9th Cir. 1984).

Therefore, it is the DOL's responsibility to determine whether there are qualified U.S. workers

available to perform the offered position, and whether the employment of the beneficiary will adversely affect similarly employed U.S. workers. It is the responsibility of USCIS to determine if the beneficiary qualifies for the offered position, and whether the offered position and beneficiary are eligible for the requested employment-based immigrant visa classification.

Eligibility for the Classification Sought

Section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees. *See also* 8 C.F.R. § 204.5(k)(1).

The regulation at 8 C.F.R. § 204.5(k)(2) defines the terms "advanced degree" and "profession." An "advanced degree" is defined as:

> [A]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

A "profession" is defined as "one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation." The occupations listed at section 101(a)(32) of the Act are "architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

The regulation at 8 C.F.R. § 204.5(k)(3)(i) states that a petition for an advanced degree professional must be accompanied by:

> (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
>
> (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

In addition, the job offer portion of the labor certification must require a professional holding an advanced degree. *See* 8 C.F.R. § 204.5(k)(4)(i).

Therefore, an advanced degree professional petition must establish that the beneficiary is a member of the professions holding an advanced degree, and that the offered position requires, at a minimum, a professional holding an advanced degree. Further, an "advanced degree" is a U.S. academic or

professional degree (or a foreign equivalent degree) above a baccalaureate, *or* a U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive experience in the specialty.

As previously discussed, the beneficiary possesses a four-year Bachelor of Engineering in and a five-trimester "MBA Program Certificate in Advanced Information Technology" from Unlike the credential from which clearly identifies the beneficiary's educational credential as a bachelor's "degree" in engineering, the credential from does not identify the beneficiary's educational achievement as a master's degree, but rather as a "certificate" from the MBA program. Nor do the beneficiary's transcripts from indicate that the coursework was part of a degree program.

As far as the record shows, lacked approval from the at the time the beneficiary studied there in 2005-2006. website includes a "Revised List of Institutions Conducting Technical Programmes Without Approval" as of July 16, 2012. appears on that list.[3] *See* http:/www Thus, did not have approval in mid-2012. On appeal the petitioner has submitted the copy of a letter from dated June 4, 2014, stating that approval was granted to for undergraduate courses in information technology for the academic year 2014-2015. This letter does not indicate that approval was granted to graduate studies in information technology, like those taken by the beneficiary to earn his MBA certificate in that field. The petitioner has also submitted an excerpt from current list of approved institutions, on which appears without further explanation. As late as January 2015, however, and its advanced information technology program do not appear on "List of Accredited Programmes in Technical Institutions." *See* http:/www. (accessed January 15, 2015). Whatever the current status of may be with regard to institutional approval and program accreditation from it is clear that had neither institutional approval nor program accreditation from during the time frame in which the beneficiary studied there and earned his MBA certificate in information technology.

The petitioner asserts that gained accreditation in India through its affiliation with the an institution recognized by On appeal the petitioner has submitted a printout from the website, dated November 12, 2014, which indicates that it affiliated with in 2004 and lists eight approved courses, all at the Ph.D. level. The petitioner has not explained how this information relates to the beneficiary, whose studies were at the MBA level, not the Ph.D. level. Nor does the record show that affiliation with the conferred any enhanced status upon the institution from The petitioner has submitted copies of agreements between and five U.S. universities, signed in the years 2003-2007, to develop educational exchanges and joint degree programs. Once again, the record does not show that affiliations with U.S. universities conferred any enhanced status upon the institution from The record demonstrates that was not an approved institution by at the time the beneficiary studied there and earned his MBA certificate in information technology.

[3] An earlier list from dated September 22, 2011, also lists as an unapproved institution. *See* http:/www

The was established in November as a "national level Apex Advisory Body to conduct survey[s] on the facilities on technical education and to promote development in the country in a coordinated and integrated manner." *See* http://www (accessed January 15, 2015). has the "statutory authority for planning, formulation and maintenance of norms and standards, quality assurance through accreditation, funding in priority areas, monitoring and evaluation, maintaining parity of certification and awards and ensuring coordinated and integrated development and management of technical education in the country." *Id.* As ensures the foundation of norms and standards in India, the educational value of an unapproved institution cannot be properly assessed.

Based on the evidence of record, we conclude that had not conferred institutional approval upon or programme accreditation upon its MBA advanced information technology program at the time the beneficiary was studying there in 2005 and 2006. The record is unclear as to whether such status has ever been conferred by If it has, such action appears to have been quite recent. In addition to the fact that the beneficiary studied at an unapproved institution in a course of study that lacked programme accreditation, the credential he earned from was not a master's degree in advanced information technology, but an "MBA Program Certificate in Advanced Information Technology." The record does not establish that this credential from is the same as a degree from an approved institution.

Even if we were persuaded that the beneficiary's "MBA Program Certificate" from is a *bona fide* degree from an institution with approval, we agree with the Director that it would not be equivalent to a master's degree from an accredited university in the United States. As discussed by the Director in the denial decision, the EDGE database[4] rates a Master of Business Administration in India as comparable to a bachelor's degree in the United States. The reason for that assessment is that the entrance requirement for an MBA degree program in India is a three-year bachelor's degree (which is common in India), not a four-year bachelor's degree which is standard in the United States. A three-year bachelor's degree in India is rated by EDGE as comparable to three years of undergraduate study in the United States. The fact that the beneficiary had a four-year bachelor's degree is irrelevant. It does not elevate the Indian MBA that followed to the equivalent of a U.S. master's degree.

[4] USCIS utilizes the database (EDGE) created by AACRAO as a resource for determining the U.S. equivalency of foreign degrees. According to its website, AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions and agencies in the United States and in over 40 countries." http://www.aacrao.org/About-AACRAO.aspx. Its mission "is to serve and advance higher education by providing leadership in academic and enrollment services." *Id.* EDGE is "a web-based resource for the evaluation of foreign educational credentials." http://edge.aacrao.org/info.php. Authors for EDGE are not merely expressing their personal opinions. Rather, they must work with a publication consultant and a Council Liaison with AACRAO's National Council on the Evaluation of Foreign Educational Credentials.[4] If placement recommendations are included, the Council Liaison works with the author to give feedback and the publication is subject to final review by the entire Council. *Id.* USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies.

On appeal the petitioner asserts that the Director's decision was based on the mistaken conclusion that the beneficiary's bachelor's degree from which preceded his MBA program at was a three-year degree rather than a four-year degree. No such mistake was made by the Director, whose determination that the beneficiary's MBA credential is not equivalent to a U.S. master's degree was not based on a finding that the beneficiary only had a three-year bachelor's degree. Rather, the Director's decision was based on the credential advice in EDGE, which in turn was based on the fact that a three-year bachelor's degree is all that was required to enter an Indian MBA program. As previously stated, the fact that the beneficiary had a four-year Bachelor of Engineering degree in Information Technology was irrelevant to the U.S. equivalency of a follow-on MBA.

The petitioner cites an excerpt from an at the Nebraska Service Center (NSC) on April 15, 2007, at which NSC officials reputedly indicated that a four-year bachelor's degree in India followed by a two-year master's degree in the same or a related field would generally be considered equivalent to a U.S. master's degree. That scenario does not necessarily apply to this case, however, because the meeting notes do not state that U.S. master's degree equivalency would still apply if a four-year bachelor's degree is not required to enter the two-year master's degree program. Moreover, this document from the is not binding on us. We are bound by the Act, agency regulations, precedent decisions of the agency and published decisions from the federal circuit court of appeals from the circuit in which the action arose. *See N.L.R.B. v. Ashkenazy Property Management Corp.*, 817 F.2d 74, 75 (9th Cir. 1987) (administrative agencies are not free to refuse to follow precedent in cases originating within the circuit); *R.L. Inv. Ltd. Partners v. INS*, 86 F.Supp. 2d 1014, 1022 (D. Haw. 2000), *aff'd,* 273 F.3d 874 (9th Cir. 2001) (unpublished agency decisions and agency legal memoranda are not binding under the APA (Administrative Procedures Act), even when they are published in private publications or widely circulated). Even USCIS internal memoranda do not establish judicially enforceable rights. *See Loa-Herrera v. Trominski*, 231 F.3d 984, 989 (5th Cir. 2000) (An agency's internal guidelines "neither confer upon [plaintiffs] substantive rights nor provide procedures upon which [they] may rely.")

The petitioner charges that the Director overlooked the previously submitted credential evaluation reports from , and These reports concluded that the beneficiary's educational credentials from were equivalent to a U.S. bachelor's degree in engineering or computer science and a U.S. master's degree in business administration. We agree with the evaluation of the bachelor's degree, which accords with the credential advice in EDGE stating that a four-year Bachelor of Engineering Degree in India is comparable to a bachelor's degree in the United States. With respect to the beneficiary's credential from however, none of the three evaluation services considered the fact that it is called a "certificate" rather than a degree and that it was issued by an institution that lacked approval. Failing to address these threshold issues fundamentally undermines the credibility of the credential evaluations.

Evaluations of a person's foreign education by credentials evaluation organizations are utilized by

USCIS as advisory opinions only. Where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept it or may give it less weight. *See Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988); *see also Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988). In accordance with the above discussion, we determine that the , and evaluations have little probative value with respect to the beneficiary's educational credential from in India. They are not persuasive evidence that the beneficiary's "MBA Program Certificate in Information Technology" from is equivalent to an MBA degree from a U.S. university.

The petitioner asserts that the Director committed a mistake of law by requiring the beneficiary to have a master's degree from an accredited institution since the pertinent regulations do not specify that a degree must come from an accredited institution to qualify a beneficiary for EB-2 classification as an advanced degree professional, unlike the regulations for H-1B (specialty worker) petitions which do specify that a baccalaureate degree must come from an accredited college or university to qualify the beneficiary for the requested classification. We are not persuaded by counsel's implication that lack of approval when the beneficiary studied there is irrelevant to this petition. Since ensures the foundation of norms and standards of technical education in India, the educational value of an unapproved institution – like at the time of the beneficiary's MBA program studies in the years 2005-2007 – cannot be properly assessed. An educational credential from a technical institution that is not approved by therefore, lacks academic weight. The lack of academic weight in this case is reflected by the fact that the beneficiary's credential from is not called a master's degree in business administration, but rather an "MBA Program Certificate." This credential does not satisfy the regulatory requirement at 8 C.F.R. § 204.5(k)(3)(i)(A), which states that the beneficiary must have "a United States advanced degree or a foreign equivalent degree" (emphasis added) – not some sort of lesser credential. Based on the foregoing analysis, we conclude that no mistake of law was made by the Director in requiring that be approved by

For all of the reasons discussed above, the petitioner has failed to establish that the beneficiary has earned a foreign equivalent degree to a U.S. master of business administration. The evidence of record fails to establish that the beneficiary's educational credential from – an "MBA Program Certificate in Advanced Information Technology" – is a formal degree from an approved institution. Even if the beneficiary's credential were a *bona fide* MBA degree, it would not be equivalent to a U.S. MBA because the entry requirement for an MBA program in India is only a three-year bachelor's degree (comparable to three years of undergraduate study in the United States), not a four-year bachelor's degree which is the U.S. standard. Thus, the beneficiary is not eligible for classification as an advanced degree professional under 8 C.F.R. § 204.5(k)(3)(i)(A) because he does not possess "a United States advanced degree or a foreign equivalent degree."

While the regulation at 8 C.F.R. § 204.5(k)(3)(i)(B) prescribes that "a U.S. baccalaureate degree or a foreign equivalent degree, and . . . at least five years of progressive post-baccalaureate experience in the specialty" would also make an alien eligible for classification as an advanced degree professional, the record does not show that the beneficiary meets these criteria. As previously discussed, the beneficiary

does satisfy the first element because his four-year Bachelor of Engineering degree from is comparable to a U.S. bachelor's degree. He does not satisfy the second element, however, because his only qualifying work experience – with – lasted just under four years, as indicated on the labor certification.[5]

Thus, the beneficiary is not eligible for classification as an advanced degree professional under section 203(b)(2) of the Act. Accordingly, the petition cannot be approved.

The Minimum Requirements of the Offered Position

Aside from classification eligibility, the petitioner must also establish that the beneficiary satisfied all of the educational, training, experience and any other requirements of the offered position by the priority date. *See* 8 C.F.R. § 103.2(b)(l), (12). *See also Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg. Comm. 1977); *Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg. Comm. 1971).

In evaluating the job offer portion of the labor certification to determine the required qualifications for the position, USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. *See Madany*, 696 F.2d at 1008; *K.R.K. Irvine, Inc.*, 699 F.2d at 1006; *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981). Where the job requirements in a labor certification are not otherwise unambiguously prescribed, e.g., by regulation, USCIS must examine "the language of the labor certification job requirements" in order to determine what the petitioner must demonstrate about the beneficiary's qualifications. *Madany*, 696 F.2d at 1015. The only rational manner by which USCIS can be expected to interpret the meaning of terms used to describe the requirements of a job in a labor certification is to "examine the certified job offer *exactly* as it is completed by the prospective employer." *Rosedale Linden Park Company v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984)(emphasis added). USCIS's interpretation of the job's requirements, as stated on the labor certification must involve "reading and applying *the plain language* of the [labor certification]." *Id.* at 834 (emphasis added). USCIS cannot and should not reasonably be expected to look beyond the plain language of the labor certification or otherwise attempt to divine the employer's intentions through some sort of reverse engineering of the labor certification. Even though the labor certification may be prepared with the beneficiary in mind, USCIS has an independent role in determining whether the beneficiary meets the labor certification requirements. *See Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 *7 (D. Or. Nov. 30, 2006).

[5] The record includes copies of letters from two other Indian companies that also claim to have employed the beneficiary. The first, from in , states that the beneficiary was employed as a software developer from June 2, 2004 to December 10, 2004. The second, from states that the beneficiary was employed as a software engineer from December 18, 2006 to October 30, 2007. Neither of these work experiences was listed on the labor certification, however, which lessens the credibility of the evidence and facts asserted. *See Matter of Leung,* 16 I&N Dec. 2530 (BIA 1976).

In the instant case, the labor certification states that the offered position requires a master's degree in computer science, IT, MIS, business administration, or a related field, or a foreign educational equivalent (Parts H.4 and H.7 and H.9 of ETA Form 9089) plus 12 months of experience in the job offered or in an occupation involving software development (Parts H.6 and H.10 of ETA Form 9089). No alternate combination of education and experience is acceptable (Part H.8 of ETA Form 9089).

The record in this case fails to show that the beneficiary has either a U.S. master's degree or a foreign equivalent degree. As previously discussed, the beneficiary's "MBA Program Certificate in Advanced Information Technology" does not appear to be a master's degree and the issuing institution – – was not an -approved institution when the certificate was issued. Moreover, even a full-fledged MBA in India – *i.e.* a degree issued by an educational institution with approval or recognition – is not equivalent to an MBA in the United States, as indicated in EDGE. Therefore, the beneficiary does not meet the educational requirement of the labor certification.

With respect to the experience requirement, the record includes the copy of a letter from dated January 17, 2013, stating that the beneficiary was a full-time IT consultant of the company in India, from November 12, 2007 to October 28, 2011. The letter describes the job duties performed by the beneficiary as well as the technologies and tools he utilized. This letter, however, does not fully meet the substantive requirements of 8 C.F.R. § 204.5(g)(l), which provides as follows:

> Evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) or trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received.

In this case the name and title of the writer from are not discernible. The letter includes a signature above the words "Authorized Signatory." But the signature is illegible and unaccompanied by a printed identification. Nor does the letter indicate the title of the authorized signatory. In view of these important omissions, we find that the letter from is insufficient to establish that the beneficiary has at least one year of qualifying experience, as required on the labor certification. A petition that fails to comply with the technical requirements of the law may be denied by us even if the director does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

As previously noted, although the record includes two additional employer letters from and neither of these work experiences was listed on the labor certification, which lessens the credibility of the evidence and facts asserted in the letters. *See Matter of Leung,* 16 I&N Dec. 2530 (BIA 1976). We also note that one of these letters – from – has the same substantive deficiencies as the letter. Furthermore, neither of the letters documents that the beneficiary's work (during the time period of 2004 to 2007) encompassed all of the skills required in Part H.14. of the labor certification, such as JSTL, Apache SOLR, and IBM DB2.

Thus, the petitioner has failed to establish that the beneficiary met the minimum educational and experience requirements of the offered position set forth on the labor certification by the priority date of January 20, 2014. For these reasons as well, the petition must be denied.

CONCLUSION

The petition is deniable on the following grounds:

1. The beneficiary does not have a U.S. master's degree or a foreign equivalent degree, nor five years of qualifying experience to go along with his foreign equivalent bachelor's degree, and thus is not eligible for classification as an advanced degree professional under section 203(b)(2) of the Act.

2. The beneficiary does not qualify for the proffered position under the terms of the labor certification because he does not meet the educational and experience requirements set forth in the ETA Form 9089.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). That burden has not been met in this case.

ORDER: The appeal is dismissed.